

## **REMARKS**

The Office Action stated that claims 1-46 were pending in this application, and that all were rejected. The applicants now cancel claims 1-31 and 47-51 and amend claim 32 to incorporate therein the subject matter of claims 36 and 38; consequently claims 36 and 38 have been cancelled and the dependencies of claims 37 and 39 changed. A minor amendment has also been made at the end of claim 38 to correct a clerical error, the need for which is believed to be obvious from the context, since claim 38 does provide an antecedent for the phrase "an opposed pair . . . of end surfaces" but provides no antecedent for the original reference to an opposed pair of rear surfaces.

Since claim 32 as now amended is identical in scope to original claim 38, the undersigned attorney presumes that the rejections set out in Paragraphs 4 and 6-10 of the Office Action are now moot, and that the only rejection which need be considered is that applied to claim 38 in Paragraph 5 of the Office Action, namely that original claim 38 is obvious over Miyashita, U.S. Patent No. 6,327,482. This rejection is traversed. More specifically, this rejection is traversed on the grounds that Miyashita does not describe or render obvious a cellular telephone having a visual indicator comprising an electro-optic medium having at least two different display states, the electro-optic medium being arranged to change its display state when a call is received by the telephone and being provided on at least two of at least three separate surfaces forming the external surface of the cellular telephone.

Miyashita describes a "mobile radio apparatus" which is similar to a cellular telephone. As noted in the Office Action, the Miyashita apparatus is provided with "an alarm lamp 5c". However, there is no indication in Miyashita that this lamp 5c is used to indicate when a call is received by the apparatus. According to column 4, lines 24-26 and 34 of Miyashita, the lamp 5c is used to indicate when the amount of data to be displayed is so great that the user needs to mount the auxiliary display 9 on the apparatus. Furthermore, according to column 4, lines 7-8 of Miyashita, when a call is received by the Miyashita apparatus, the phone number of the calling station is displayed on the main

display 7, and there is no indication that the lamp 5c is in any way involved in indicating the receipt of a call. Thus, the lamp 5c of Miyashita does not function as an incoming call indicator in the manner required by the present claims.

Also, the lamp 5c is provided only on the front surface of the Miyashita apparatus, and not on at least two external surfaces of the apparatus, as required by the present claims; the basis for the statement on page 6 of the Office Action that a "visual indicator is present on the rear surface and an opposed pair of side and rear surfaces (see fig. 1, 5c)" is unclear, since Figure 1 of Miyashita clearly shows that the lamp 5c is present only on the front surface of the apparatus. Furthermore, there is no logical reason to provide a lamp 5c on any other surface of the Miyashita apparatus since, as noted above, the lamp 5c is used only to indicate when the amount of data to be displayed is so great that the user needs to mount the auxiliary display 9 on the apparatus, so that the user only needs to refer to the lamp 5c after a call has been received, by which time the user is presumably already looking at the front surface of the apparatus to determine the phone number of the calling station on the main display 7.

Providing a visual indicator on at least two external surfaces of a cellular telephone, and preferably on the rear surface and at least one pair of opposed side or end surfaces, as required by the present claims, is not merely a matter of design choice. As discussed in Paragraphs [0009], [0010] and [0044] of this application, cell phones often ring at embarrassing times. Users of cell phones have received considerable criticism because of the distraction and disruption which occurs when such phones ring in restaurants, cinemas, theaters or similar places of entertainment, public and business meetings, worship services and other types of meetings. Under such circumstances, the user of a cell phone needs some way to know when a call is received, without the inconvenience and embarrassment of an audible ring. Attempts have been made to use vibrating indicators in place of rings, but such vibrating indicators give rise to other problems. One approach to solving this problem is to provide a visual rather than audible warning of an incoming call. However, most conventional visual warning devices are ill-

suited for use with cell phones. Conventional small incandescent bulbs, such as are use in flash lights, may prove too fragile when subjected to the handling to which cell phones are subjected, and may impose current demands larger than those conveniently supplied by cell phone batteries. A light emitting diode could be used as a visual indicator, but draws power continuously, thus reducing the operating time of the cell phone, and is only visible over a limited range of orientations. Also, a light emitting diode covers only a few square millimeters, and thus may not be visible when the phone is placed in certain positions relative to the user.

Electro-optic media are well-suited to providing an appropriate visual indicator for a cell phone because their thin, flexible nature allows them to cover a surface in an ergonomic, lightweight way while still achieving a large display area. The visual indicator may be wrapped around multiple sides of the cell phone, so that it is visible regardless of the orientation of the phone. Hence, providing an electro-optic visual indicator on at least two external surfaces of the cell phone in accordance with the present invention gives important practical advantages which are not given the prior art apparatus shown in the references.

Finally, it should be noted the lamp 5c of Miyashita does not appear to be an electro-optic medium visual indicator as required by the present claims. Although Miyashita does not specify the exact nature of the lamp 5c, the term "lamp" suggests an incandescent bulb, or possibly an LED. In any event, Miyashita clearly distinguishes between the lamp 5c and the liquid crystal used for the main display 7.

For all the foregoing reasons, the 35 USC 103 rejection is unjustified and should be withdrawn.

Reconsideration and allowance of all claims now present is respectfully requested.

No additional claim fees are required in connection with this Amendment.

*Wilcox et al.*  
*Serial No. 09/683,250*  
*Amendment of September 9, 2004*  
*Page 7*

Since the normal period for responding to the Office Action expired July 13, 2004, there is filed herewith a Petition for a two month extension of this period. A Supplemental Information Disclosure Statement is also being filed herewith.

Respectfully submitted

A handwritten signature in cursive script that reads "David J. Cole".

David J. Cole  
Registration No. 29629

E INK Corporation  
733 Concord Avenue  
Cambridge MA 02138

Telephone (617) 499-6069  
Facsimile (617) 499-6200  
E-mail dcole@eink.com